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	APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR			ATTORNEY DOCKET NO.	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary Examiner		Applicati n No.	Applicant(s)								
Harry J Guttman Harry J Gu	.	09/763,791	BLAKE ET AL.	BLAKE ET AL.							
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Excessors of the may be evaluate under the provision of 3 CPR 1-136(a). In one event, however, may a reply be limitly filed If the period for reply reposited above, the maximum of 3 CPR 1-136(a). In one event, however, may a reply be limitly filed If the period for reply reposited above, the maximum of 3 CPR 1-136(a). In one event, however, may a reply be limitly filed If the period for reply reposited above, the maximum callating yeared will apply and will serpor St (i) (MOVITHS from the maining date of this communication. Falser to reply within the set of evalencide princip for reply with, by statutory pand will serpor St (i) (MOVITHS from the maining date of this communication. Falser to reply within the set of evalencing the form of the communication of the com	Office Action Summary	Examiner	Art Unit								
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THE MAILING DATE OF THIS COMMUNICATION. - Exercisions of them may be analysis under the provisions of 32 CPR 1.13(a). In no event, however, may a reply be limitely filed after 51% (g) MONTHS from the mailing date of this communication. If the period for reply specified above is less than that (gol) dept, a reply within the authory minimum of thry (30) dept will be considered limitely. If the period for reply specified above is less than the reply will be provided to the communication in the provided of the communication of th	• •										
1) Responsive to communication(s) filed on	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 										
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-37 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved by disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been receiv											
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Application/Control Number: 09/763,791

Art Unit: 1651

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-18 and 32-35, drawn to a food composition containing XOR.

Group II, claim(s) 19-25, 36 and 37, drawn to a method of making an XOR food composition by mixing and pasteurizing.

Group III, claim(s) 27-31, drawn to method of administering the XOR food product.

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The Groups appear to be linked by the technical feature of the XOR composition of Group I as detailed above. However, this food product is well known since XOR is found in many known food products like milk, liver etc... Thus, the linking technical feature is not a contribution over the prior art. Each of the Groups has a technical feature as described above, which is not required for the other Groups.

A telephone call was made to John J. Gresens on November 6, 2001 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).



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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication should be directed to Harry J. Guttman, Ph.D. at telephone number (703) 305-0159. The examiner can normally be reached during the hours of 07:30 to 16:00 Eastern Time, Mon.-Thurs. If attempts to reach the examiner by telephone are unsuccessful, a message may be left on the voice mail. The fax number for Art Unit 1651 is (703) 308-4242 or 305-3014. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196. My supervisor, Michael Wityshyn, may be contacted at (703) 308-4743.

All internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified or exchanged unless there is of record an express waiver of the confidentiality requirements of 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published in the Patent and Trademark Office Official Gazette on 25 February 1997 at 1195 OG 89.

H.J.G. 6 November 2001

Harry J. Guttman, Ph.D.

Examiner, 1651

harry.guttman@uspto.gov

Jon P. Weber, Ph.D. Primary Examiner